

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 108th Congress ¹**

[Date approved: August 27, 2004]²

Bill No. and sponsor: S. 2248 (Sen. Lautenberg)

Proponent name, location: Fashion Accessories Shippers Association (FASA), New York

Other bills on product (108th Congress only): None.

Nature of bill: Permanent tariff change, resulting in reclassification and duty reduction.

Retroactive effect: From November 18, 1999.

Suggested article description(s) for enactment (including appropriate HTS subheading(s)):

The proposed bill would insert a new additional U.S. note in chapter 42 of the HTS to restrict the meaning of “plastic” and “sheeting of plastic” with regard to certain goods of heading 4202 that have an outer surface coating of plastics, by requiring that coatings measuring 0.15 mm or less in thickness be ignored when the goods are classified. Many of the tariff rate lines of heading 4202 distinguish among goods on the basis of the material comprising their outer surfaces. The subject goods—as described in the product section below--would therefore be excluded from the HTS categories for goods “with outer surface of sheeting of plastic” and would fall in tariff rate lines covering similar goods of other materials. In general, the latter provisions have lower duty rates than the categories for goods with outer surface of plastic or plastic sheeting. The bill would effectively overturn a 1999 Customs ruling and various subsequent administrative and judicial decisions stating that any coating or surface of plastic meant that the good would fall in the “plastic” rate lines at higher duty rates. Earlier, Customs had in some rulings employed the same 0.15 mm standard that is proposed in this bill.

Check one: ☒ Same as that in bill as introduced
☐ Different from that in bill as introduced (explain differences in Technical comments section)

Product information, including uses/applications and source(s) of imports:

Heading 4202 covers trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases binocular, cases, camera cases, musical instrument cases, gun cases, holsters and similar

¹ Industry analyst preparing report: Brian Allen (202-708-4728); Tariff Affairs contact: Jan Summers (202-205-2605).

² Access to an electronic copy of this memorandum is available at <http://www.usitc.gov/billrpts.htm> Access to a paper copy is available at the Commission’s Law Library (202-205-3287) or at the Commission’s Main Library (202-205-2630).

containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags shopping bags wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, regardless of the materials of which they are made. Thus, such goods of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper all fall in this heading. This suggested Additional U.S. Note would affect certain goods of HTS subheadings 4202.12.20 (dutiable at a general rate of 20 percent ad valorem), 4202.22.15 (16 percent ad val.), 4202.32.10 (12.1¢/kg.+4.6 percent ad val.), 4202.32.20 (20 percent ad val.), and 4202.92 (3.4-20 percent ad val.). Industry representatives have noted that these goods may be imported with other types of finishes or coatings, but the proposed legal note would not address them.

Estimated effect on customs revenue:

HTS subheading: 4202.12.20					
	1999	2000	2001	2002	2003
Col. 1-General rate of duty (AVE) <u>1/</u>	20%	20%	20%	20%	20%
Estimated value <i>dutiable</i> imports <u>2/</u>	NA	NA	NA	NA	NA
Customs revenue loss <u>3/</u>	NA	NA	NA	NA	NA

1/ The AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available.

2/ The exact value of affected dutiable imports is unknown because many types of products of varying values fall under the relevant HTS provision.

3/ Customs officials did not provide an estimate.

HTS subheading: 4202.22.15					
	1999	2000	2001	2002	2003
Col. 1-General rate of duty (AVE) <u>1/</u>	16%	16%	16%	16%	16%
Estimated value <i>dutiable</i> imports <u>2/</u>	NA	NA	NA	NA	NA
Customs revenue loss <u>3/</u>	NA	NA	NA	NA	NA

1/ The AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available.

2/ The exact value of affected dutiable imports is unknown because many types of products of varying

values fall under the relevant HTS provision.

3/ Customs officials did not provide an estimate.

HTS subheading: 4202.32.10					
	1999	2000	2001	2002	2003
Col. 1-General rate of duty (AVE) <u>1/</u>	\$0.121/kg.+4.6% (5.8%)	\$0.121/kg.+4.6% (6.0%)	\$0.121/kg.+4.6% (6.0%)	\$0.121/kg.+4.6% (6.0%)	\$0.121/kg.+4.6% (5.8%)
Estimated value <i>dutiable</i> imports <u>2/</u>	NA	NA	NA	NA	NA
Customs revenue loss <u>3/</u>	NA	NA	NA	NA	NA

1/ The AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available.

2/ The exact value of affected dutiable imports is unknown because many types of products of varying values fall under the relevant HTS provision.

3/ Customs officials did not provide an estimate.

HTS subheading: 4202.32.20					
	1999	2000	2001	2002	2003
Col. 1-General rate of duty (AVE) <u>1/</u>	20%	20%	20%	20%	20%
Estimated value <i>dutiable</i> imports <u>2/</u>	NA	NA	NA	NA	NA
Customs revenue loss <u>3/</u>	NA	NA	NA	NA	NA

1/ The AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available.

2/ The exact value of affected dutiable imports is unknown because many types of products of varying values fall under the relevant HTS provision.

3/ Customs officials did not provide an estimate.

HTS subheading: 4202.92					
	1999	2000	2001	2002	2003
Col. 1-General rate of duty (AVE) <u>1/</u>	3.4%-20%	3.4%-20%	3.4%-20%	3.4%-20%	3.4%-20%
Estimated value <i>dutiable</i> imports <u>2/</u>	NA	NA	NA	NA	NA
Customs revenue loss <u>3/</u>	NA	NA	NA	NA	NA

1/ The AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available.

2/ The exact value of affected dutiable imports is unknown because many types of products of varying values fall under the relevant HTS provision.

3/ Customs officials did not provide an estimate.

HTS subheadings 4202.12.20, 4202.22.15, 4202.32.10, 4202.32.20, and 4202.92					
Total estimated revenue loss					
*****	1999	2000	2001	2002	2003
*****	NA <u>1/</u>	NA <u>1/</u>	NA <u>1/</u>	NA <u>1/</u>	\$79,197,276

1/ Customs officials cannot provide an exact figure; see technical comments.

Contacts with domestic firms/organizations (including the proponent):

Name of firm/organization	Date contacted	US production of same or competitive product claimed?	Submission attached?	Opposition noted?
		(Yes/No)		
Fashion Accessories Shippers Association/National Fashion Accessories Association, Sara Mayes	June 10, 2004	No	No	No
Travel Goods Association, Nate Herman	June 3, 2004	No	No	No

Technical comments:³

Because industry spokesmen indicated an interest in applying the same rule to goods with other finishes, we note that the proposed additional U.S. note as drafted would not set a standard for any other type of finish or coating employed on goods of heading 4202. In addition, we note that such a note would set a legal standard for the scope of existing international or 6-digit HTS subheadings, for terms that have not yet been defined in the Harmonized System by the World Customs Organization.

This bill would overturn Customs classification rulings and thereby revert Customs treatment of products with an outer surface of leather or other material finished with a plastic coating to the tariff treatment previously applied. (See New York Ruling Letter E89770 of Nov. 19, 1999 changing prior practice; affirmed in Headquarters Ruling 963618 of Aug. 2, 2002; the latter citing in part the Court of International Trade decision in *Sarne Handbags Corp. v. United States*, 100 F.Supp. 2d 1126, 2000 Ct.Int'l.Trade 51 (2000). The effective date of the proposed bill results from the 1999 ruling.)

Because products with an outer surface of leather but having a plastic finish are currently classified in the same HTS provisions as are products with an outer surface of plastic (not just with a plastic finish), the dutiable value of affected imports and the customs revenue loss that would result from the bill are uncertain. A Customs official provided an estimate for the likely total revenue loss for 2003 of approximately \$80,000,000, given the relatively high duty rates that have been applied to these goods since November of 1999.⁴ The official also estimated that the revenue loss in each successive year would be approximately equal to the revenue loss in 2003. As noted in the tables above, we cannot verify this estimate given that the subject goods are not separately identified in the HTS.

³ The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

⁴ U.S. Customs Service official, e-mail communication with Commission staff, July 21, 2004.

108TH CONGRESS
2D SESSION

S. 2248

To clarify the Harmonized Tariff Schedule classification of certain leather goods.

IN THE SENATE OF THE UNITED STATES

MARCH 29, 2004

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To clarify the Harmonized Tariff Schedule classification of certain leather goods.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CERTAIN LEATHER GOODS.**

4 (a) IN GENERAL.—Chapter 42 of the Harmonized
5 Tariff Schedule of the United States is amended by adding
6 at the end of the Additional U.S. Notes, the following:

7 “3. For the purposes of heading 4202, the terms
8 ‘plastic’ and ‘sheeting of plastic’ do not apply to goods
9 having a plastic finish, or coating, of 0.15 mm or less in
10 thickness, and such plastic finish or coating shall not be

1 considered in determining the exterior or outer surface of
 2 any good.”.

3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendment made by
 5 subsection (a) applies with respect to goods entered,
 6 or withdrawn from warehouse for consumption, on
 7 or after November 18, 1999.

8 (2) RETROACTIVE APPLICATION TO CERTAIN
 9 ENTRIES.—Notwithstanding section 514 of the Tar-
 10 iff Act of 1930, or any other provision of law, upon
 11 proper request filed with the Customs Service before
 12 the 90th day after the date of the enactment of this
 13 Act, any entry, or withdrawal from warehouse for
 14 consumption, of any good described in the amend-
 15 ment made by subsection (a)—

16 (A) that was made on or after November
 17 18, 1999, and before the date of enactment of
 18 this Act, and

19 (B) with respect to which there would have
 20 been no duty or a lower duty if the amendment
 21 made by subsection (a) applied to such entry or
 22 withdrawal,
 23 shall be liquidated or reliquidated as though such
 24 amendment applied to such entry or withdrawal.

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